

AMERICAN ASSOCIATION OF PORT AUTHORITIES

1010 Duke Street • Alexandria, VA 22314

Phone: (703) 684-5700

Fax: (703) 684-6321

Testimony of Michael Leone

Port Director, Massachusetts Port Authority

on behalf of the

American Association of Port Authorities

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Good morning. I am Mike Leone, Port Director of the Massachusetts Port Authority, representing the American Association of Port Authorities (AAPA) as Chairman of its Ad Hoc Task Force on Seaport Security. Founded in 1912, AAPA is an association of more than 150 public port authorities in the United States, Canada, Latin America and the Caribbean. In addition, the association represents more than 250 sustaining and associate members, firms and individuals with an interest in the seaports of the Western Hemisphere. My testimony today reflects the views of AAPA's United States delegation.

AAPA port members are public entities, divisions or agents of State and local government mandated by law to serve public purposes. Public Port Authorities are charged with developing port facilities, facilitating waterborne commerce, and promoting economic development. Ports are key to this nation's ability to trade internationally, providing American consumers and businesses with the choices they demand for worldwide products and markets. Ports provide this connection to the world by handling 95 percent of all U.S. overseas trade by weight, and 75 percent by value. Ports also support the mobilization and deployment of U.S. Armed Forces.

Today, we are here to discuss legislation aimed at enhancing the security of U.S. seaports that are also international borders. U.S. port authorities do not condone illegal acts of any kind taking place in public ports. Ports believe that the protection of port cargo, passengers and facilities from pilferage, theft, terrorism and other criminal activity is critical to ports, their customers, as well as to the nation as a whole. In fact, AAPA has a long-standing port security

committee focusing on these issues.

Ports have invested significant resources in improving security at seaports to prevent seaport crime from occurring, and continue to make improvements. Some ports spend millions of dollars on their own port police, as well as patrol vehicles, training, computer systems, etc. Also, many of our port members have and continue to invest in security infrastructure such as fencing, lighting and barriers. Some of these improvements have been based on state requirements, which address specific problems in individual states. In addition to providing this infrastructure, our members work with local and Federal authorities to eliminate criminal activities and will continue to seek new avenues to stop crime at seaports.

Security at seaports involves multiple state, local and Federal government jurisdictions as well as the private sector. The Federal government should play a large role in maintaining security at these international borders. Addressing seaport security requires a strong commitment of Federal resources, a partnership among all parties involved and the flexibility to develop local security programs that consider the unique needs of each port. Ports are diverse, with a variety of security needs and concerns. There is no universal approach to security that would appropriately address the wide range of individual port requirements. Additionally, ports already devote significant resources to their security programs; therefore, any attempt to further address this issue should build on or strengthen the programs that are already in existence on the local level and should be supported with adequate Federal resources.

While the Association recognizes the need for the port industry to continue to make improvements in seaport security, AAPA does not believe the enactment of a new Federal program is the most effective means to increasing security. We believe increased coordination and information sharing among local/Federal agencies as well as the private sector, combined with additional resources for current seaport law enforcement programs, is the appropriate method to address these important issues. For example, the Coast Guard has already instructed the Captains-of-the-Port to develop local committees to facilitate information sharing on crime and security issues. We support this initiative and believe information sharing through these committees will result in stronger security programs that address actual problems.

While AAPA does not believe a new Federal program is needed, the remainder of our testimony will address specific comments regarding the "Port and Maritime Security Act of 2001." Overall, the bill is an improvement from legislation introduced last year (S. 2965). It is narrower in focus (covering only 50 ports), provides for more partnership opportunities with the non-Federal sector, allows more flexibility to address the unique nature of ports, and provides more resources to the Federal government and the private sector to

address crime. AAPA is pleased to see the changes in the bill, especially the deletion of minimum standards for security plans and security guidelines. AAPA remains strongly opposed to minimum standards and believes that any guidance on security provided in the bill must be flexible to reflect the actual security needs of a port.

The bill also provides more funding than last year's version; however, AAPA is concerned that it is not enough to pay for the improvements mentioned in the bill. According to the Interagency Commission report it would cost ports as much as \$45 million to address the security issues listed in the model port concept. If new legislation or policies require or warrant security improvements, the Federal government must provide the resources necessary to address this issue. (AAPA is strongly opposed to unfunded Federal mandates).

Below are more detailed comments on specific sections of the bill.

Port Security Task Force and Oversight

Section 3 of the legislation calls for the establishment of a Port Security Task Force to implement the Act and coordinate programs to enhance security and safety at U.S. ports. Last year, AAPA recommended that this Task Force be expanded to include the private sector, as recommended by the Interagency Commission on Crime and Security at Seaports. AAPA also recommended that the Task Force be consulted in the development of port security guidance and regulations. We are pleased to see that the new bill incorporates these changes.

The bill also should be clarified to indicate that the Task Force should be consulted by the Coast Guard in the development of standards and procedures for vulnerability threat assessments. These standards will serve as the basis for how all 50 vulnerability assessments will be performed. In the development of these standards, Section 5 (a) does provide that appropriate public and private sector organizations be consulted, which AAPA strongly endorses. We also, however, recommended that the Port Security Task Force specifically be included in the outside groups to consult with. This would require changes under Section 3, which describes the jurisdiction of the Task Force, and Section 5 (a), which discusses the vulnerability assessment. This change will ensure a partnership approach and is in-line with the jurisdiction of the Task Force as outlined in the bill.

AAPA recommends that any discussions or decisions on seaport security made at the national level must be based on the recommendations of the Task Force that includes representation from the port industry. The Task Force could make recommendations; however, ultimately

AAPA believes that tailored security plans should be coordinated at the local level in conjunction with the U.S. Coast Guard.

Local Seaport Security Committees

AAPA views information sharing at the local level as a key component in making improvements to seaport security. Information sharing on the actual crime and threats at a particular port will encourage better targeting of security efforts to address local issues. The local security committees, called for in the bill, are an excellent way to accomplish this goal of information sharing. The bill should be amended under Section 6 to give local security committees the authority to develop a security program for the port, rather than the port authority or marine terminal. Port authorities do not have jurisdiction over the entire port area, especially private areas of the port.

Ports already work closely with the local Coast Guard Captain-of-the Port (COTP) on a number of safety and security issues, and AAPA is pleased that the legislation states that these committees may use or augment existing harbor safety committees or seaport readiness committees. Under the Oil Pollution Act (OPA 90) many ports have set up an area committee to develop plans to handle catastrophic release into navigable waters. AAPA recommends that these committees also could be used to address security issues. These committees are headed by the COTP, include all elements of the local port industry and have resulted in the development of contingency plans, pre-deployment of equipment and conducting drills to test the validity of the plans. The bill also should ensure that these committees do not duplicate ongoing anti-terrorism programs, but complement them through coordination of efforts.

Section 4 of the bill calls for “an annual exercise to be conducted to verify the effectiveness of each port’s security plan.” The bill does not specify whether the exercise must be a “full scale” or a “table-top exercise” and therefore the requirement may be redundant to what is already taking place at the port. Ports conduct numerous exercises each year that include security elements, especially at strategic ports. It may be more appropriate to conduct a full-scale security exercise once every 3-5 years at the COTP’s discretion to cover this need.

Security Program Guidance/ Security Programs

The bill requires that the Coast Guard and the Maritime Administration develop a set of guidance/best practices to be used as a benchmark for the review of the local security programs developed by local port authorities. AAPA is pleased to see that the bill now requires the Coast Guard to take into account the different nature and characteristics of U.S. seaports in developing this voluntary security guidance.

While AAPA believes these plans can be of value as a planning exercise, the bill as written still raises some challenges.

First, the legislation calls on the plans to be evaluated based on guidance in particular areas. For example, Section 7 notes that the guidance, and therefore the program, must include physical, procedural and personnel security; a credentials process for access to sensitive areas; restrictions on vehicular access; restrictions on firearms, and certification of private security officers. While we are pleased to see that these areas are no longer considered mandatory or minimum standards, AAPA still has concerns about the impact of these requirements. These areas will become priorities, rather than the true risks identified in a vulnerability assessment. It is our view that attempts to address seaport security at an individual port must be justified by a security assessment so that improvements are made based on a proven need, rather than on a list of areas outlined in a bill.

AAPA is also concerned about how the Coast Guard will develop this guidance. If it is based on the “model port” included in the Commission report, the cost of these improvements is very high. The report notes that the total estimated cost for maximum-level implementation is \$44 million per port. While the bill does provide some financial assistance, it is not nearly enough to cover the “model port” recommendations. Ports should be given the opportunity to explain why they are not following the guidance. For example, if the guidance says all port facilities should be fenced and have security lights, the port could, in its security plan, be allowed to state why fencing is not needed.

AAPA believes that plans should be tied to the findings of vulnerability assessments. The bill does not require plans to be based on the findings of the assessment but only states that a port have a security program in place within one year of an assessment being completed. AAPA believes that once a vulnerability assessment is conducted, the local security committee should identify the security issues at the port and develop recommendations based on a broad set of “best practices.” These recommendations should then serve as the basis for port security plans. AAPA recommends that a “best practices” approach for the issues listed under minimum standards is better than requiring all plans to be judged against minimum standards.

The bill also calls for port authorities to develop the port security programs. We recommend that the local committees be charged with this duty, because port authority jurisdiction varies by port and does not include private areas. Since port authorities would participate on the local committee, they would continue to be involved. In addition, the bill should be amended to clarify that private areas of the port must be included in any port plan.

Vulnerability Assessments

AAPA agrees that individual vulnerability assessments are important in determining a port's true risk; however, several improvements should be made to the bill. First, the development of standards and procedures for conducting seaport security vulnerability threat assessments should include advice from the Task Force. The Task Force must be consulted to ensure that these assessments are done in a manner that is helpful to port authorities and the private sector that are tasked with making improvements.

AAPA also recommends that the local committees be more involved in conducting individual port vulnerability assessments to ensure they are locally relevant. We recommend that the vulnerability assessments be conducted by the local Coast Guard in conjunction with the port authority and/or the local committee. It may be appropriate to use a consultant for these assessments because the Coast Guard's assessments may be too costly, may not be done in a timely manner, and may provide too little detail. There must also be cooperation from appropriate agencies to provide financial support and the threat information necessary to determine risk. Congress should also consider whether the assessments should be limited to cargo crime, since Federal agencies already conduct threat assessments on terrorism and weapons of mass destruction. Once the assessment is completed, it should be used as the basis for developing seaport security programs at each port. This connection is missing from the bill. Finally, these reports must be held in strict confidence with the local port authority and law enforcement agencies. A report to Congress may disclose security sensitive information and could create a competitive disadvantage.

Information Sharing

Another important aspect of partnering at the local level is the ability to share information. According to the Interagency Commission report, most ports/terminal operators are not aware of the crimes that are taking place. In many cases, information is not communicated to the ports/terminal operators by the Federal or local law enforcement agencies that have jurisdiction over these criminal areas. Agencies such as the Federal Bureau of Investigation and the U.S. Customs Service often provide little information to ports. Enhancing communication between these agencies and the seaport industry, including labor unions involved in day-to-day operations at the port, would allow local seaport security committees to better focus their efforts within the port area. Though a port has little control over internal conspiracies or drug interdiction, the local port committee can work closely with the Federal agencies that have jurisdiction over this criminal activity to address these issues.

Seaport Security Officer Training

AAPA commends the legislation for addressing the issue of seaport security officer training and encourages the development of appropriate programs for this purpose. Such programs could provide the kind of training specific to handling security on the waterfront. Upon completion, the security officer could receive certification that he/she has been officially trained as a seaport security officer. Existing training programs could serve as models. We recommend, however, that the bill be amended to include AAPA as one of the groups to be consulted with in establishing the program. Since port authorities are charged under the bill with security duties, and we have expertise throughout the Western Hemisphere on port security issues, we believe we can provide vital counsel in the development of this training program.

Support for Customs and International Cooperation

The issue of controlling imports and exports is something over which port authorities have little direct control. In order for the U.S. Customs Service to more closely monitor cargo flowing in and out of the country, and conduct more inspections without slowing the movement of commerce, they must have additional resources, both in terms of personnel and equipment. Modernizing Customs resources, such as upgrading the Automated Commercial System, would greatly improve the Customs Service's ability to more closely monitor what is coming into and out of the country while ensuring the continuous flow of commerce. AAPA also is pleased to see that the new bill provides resources for Customs to purchase more non-intrusive screening and detection equipment.

With trade rapidly increasing, inspections must not interfere with a port's ability to move cargo; therefore, AAPA has some concerns with section 15 (2) of the bill. This section requires the same level of data for an in-bond entry as for a consumption entry to obtain a "release." More importantly, if all entries have to be made at the first seaport of entry, the congestion and time it takes to move freight would increase considerably. An undesired consequence could be diversion of transshipped cargo to Canada and the Caribbean, resulting in a loss of U.S. jobs. We urge the Committee to ensure that this section is crafted in a way that addresses both security issues and protects transshipping.

The United States has little control over what is being placed on a vessel in another country. However, AAPA believes that enhanced crime and security information exchange internationally provides an opportunity to reduce the flow of drugs and other illegal shipments. The bill appropriately gives the Maritime Administration new authority in this area. In addition, the State Department and other international organizations should play a greater role and take the lead in sharing information internationally to reduce the types of illegal shipments that are coming into the United States. Finally, AAPA is committed to coordinating with its member ports

throughout the Western Hemisphere on seaport crime and security issues.

Conclusion

Overall, AAPA believes that legislation is not necessary to address seaport security; however, the Association is committed to working closely with the Coast Guard and the other appropriate Federal agencies to strengthen our nation's international borders. The Federal government, however, must invest significant resources to ensure proper funding of essential programs and provide adequate personnel for addressing these serious issues. Through greater coordination at the local level and the necessary resources, AAPA believes we can build on the programs already in existence and enhance seaport security.